

(4) Permit an increase in the allowable distribution that could be accommodated by an increase in the rents on occupied units to a level no higher than 30 percent of the adjusted income of the tenants, as determined by the Commissioner, except that rents shall not exceed the fair market rent, and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years, unless such increase is less than 10 percent; and

(5) Ensure that units becoming vacant during the term of the agreement are made available in accordance with § 248.233(d)(7) of this part.

(b) *Expiration.* Agreements entered into under this section shall expire on February 5, 1992, unless earlier superseded by an agreement implementing a HUD-approved plan of action. Upon such expiration of the agreement on February 5, 1992, the housing covered by the agreement shall be subject to any law then affecting low income affordability restrictions.

**§ 248.251 Consultation with other interested parties.**

The Commissioner will confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this part and will give consideration to the views of the State or local agency when making the determinations under §§ 248.221 and 248.233 of this part. The Commissioner also will confer with other interested parties that the Commissioner believes could assist in the development of a plan of action that best achieves the purposes of this part.

**§ 248.261 Agreements implementing plans of action and State strategies.**

The Commissioner is authorized to enter into agreements, including those for the provision of incentives, necessary to implement any plan of action or State strategy approved by the Commissioner under this part.

**Subpart D—State Preservation Project Assistance**

SOURCE: 57 FR 12060, Apr. 8, 1992, unless otherwise noted.

**§ 248.300 General.**

Upon application by a State agency or a local public housing agency, the Commissioner may make available assistance for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing.

**§ 248.301 Initial application.**

A State agency shall make an initial application to the Commissioner which:

(a) Describes the manner by which the State housing program provides mortgage assistance or subsidy to private mortgagors to provide housing opportunities for low and moderate income families;

(b) Includes copies of the authorizing legislation, any implementing regulations and any administrative guidance provided to owners;

(c) Includes a comprehensive description of the terms and conditions under which a private owner may prepay the assisted or subsidized mortgage without the prior consent of the State agency;

(d) Includes a complete set of pro forma mortgage and/or regulatory documents which evidence an owner's ability to prepay the assisted or subsidized mortgage without the consent of the State agency;

(e) Includes a list of all properties assisted under the State or local housing program whose owners are eligible to prepay the assisted or subsidized mortgages without the consent of the State agency.

**§ 248.303 Approval of a State agency's initial application.**

(a) The Commissioner will evaluate the State agency's application and will notify the State agency within 90 days of receipt that the program and properties qualify under subpart D of this part or that the program and properties do not qualify under subpart D of this part.

(b) If the Commissioner determines that the program and projects do not qualify under subpart D of this part, it will state the reasons why the program

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and properties do not qualify and will give the State agency an opportunity to provide additional information, as the Commissioner determines, which would assist the Commissioner in qualifying the program and properties.

### § 248.305 Applicability of subpart B of this part.

The provisions of subpart B of this part shall be applicable to any application of a State agency or local housing authority for assistance under subpart D of this part, except the following provisions:

Sec.

248.103 General prepayment limitation.

248.105 Notice of intent.

248.131 Information from the Commissioner:  
Only paragraph (a).

248.141 Criteria for approval of a plan of action involving prepayment and voluntary termination.

248.153 Incentives to extend low income use:  
Only paragraphs (a)(7), (d) and (e).

248.165 Assistance for displaced tenants.

248.169 Permissible prepayment or voluntary termination and modification of commitments.

248.173 Resident homeownership program:  
Only paragraph (s).

248.177 Delegated responsibility to State agencies.

### § 248.307 Authority to process and approve notices of intent and plans of action.

(a) *Delegation of authority.* State agencies which regulate or otherwise supervise owners of projects with State assisted or subsidized mortgages shall have the authority, reserved to the Commissioner under subpart B of this part, to process and approve all notices of intent and plans of action submitted to the State agency or local housing authority under subpart D of this part. State agencies may redelegate such authority to local housing authorities at their discretion.

(b) *Designation of processing agency.* The Executive Director of the State agency whose State assisted or subsidized mortgage program has been approved under § 248.303 shall inform all owners of projects with State assisted or subsidized mortgages that the State agency or a designated local housing authority shall accept and process notices of intent and plans of action.

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### § 248.311 Notice of intent.

(a) *Eligibility for filing.* An owner of a project with a State assisted or subsidized mortgage intending to extend the low income affordability restrictions of the housing in accordance with § 248.153 or transfer the housing to a qualified purchaser under § 248.157 may file a notice of intent.

(b) *Filing with the State agency.* The notice of intent shall be filed with the agency specified in § 248.307(b) or the agency which regulates or otherwise supervises the State assisted or subsidized mortgage. The notice of intent shall also request the tenants to notify the owner and the State agency of any individual or organization that has been designated or retained by the tenants to represent the tenants with respect to the actions to be taken under subpart B and subpart D of this part.

(c) *Filing with HUD, mortgagee and tenants.* The owner simultaneously shall file the notice of intent with the local HUD field office having jurisdiction over the area in which the project is located and with the mortgagee, if any. In addition, the owner shall deliver a copy of the notice of intent to each tenant in the project and to any tenant representative, if any, known to the owner, and shall post a copy of the notice of intent in readily accessible locations within each affected building of the project. The copies of the notice of intent delivered to the tenants and the tenant representative shall include a summary of possible outcomes of the filing which shall be furnished by the State agency. Upon the request of any non-English speaking tenants residing in the affected project, the owner shall tabulate the number and type of translations needed by the tenants and request the State agency to provide the appropriate translations. The owner shall deliver a copy of the translated notice of intent to all of the tenants who requested such a translation. The failure of an owner to comply with any non-federal notice requirements shall not invalidate the notice of intent.

### § 248.315 Preservation agreements.

(a) *Agreements required.* Owners of projects with State assisted or subsidized mortgages whose plans of action have been approved under § 248.307